

AMENDED IN ASSEMBLY JUNE 15, 2005

AMENDED IN ASSEMBLY MAY 27, 2005

AMENDED IN ASSEMBLY MAY 23, 2005

AMENDED IN ASSEMBLY MARCH 1, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 6

**Introduced by Assembly Members Chan and Vargas
(Coauthors: Assembly Members Hancock, Nation, and Yee)**

December 6, 2004

An act to amend Sections 17041 and 17062 of the Revenue and Taxation Code, relating to ~~taxation, to take effect immediately, tax~~ *levy education finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 6, as amended, Chan. Personal income tax: rates: *education finance.*

Under the Personal Income Tax Law, taxes are imposed at specified rates, up to a maximum of 9.3%, based on the amount of the taxpayer's taxable income and a maximum of 7% based on the taxpayer's alternative minimum taxable income.

This bill would declare the intent of the Legislature to reinstate the maximum personal income tax rates that were in effect for taxable years beginning on or after January 1, 1991, and before January 1, 1996, for the taxable years beginning on or after January 1, 2005, ~~and before January 1, 2010.~~

This bill would, for taxable years beginning on or after January 1, 2005, ~~and before January 1, 2010,~~ impose 10% and 11% maximum

rates, except as provided, for taxpayers with taxable incomes over certain amounts, and impose an 8.5% maximum rate based upon the taxpayer's alternative minimum taxable income.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

The California Constitution requires the state to apply a minimum amount of funding for each fiscal year for the support of school districts and community college districts. Existing law authorizes the Legislature to suspend that minimum funding obligation for one year by the enactment of an urgency statute, as provided.

Existing law, enacted in 2004, suspended the minimum education funding obligation for the 2004-05 fiscal year and required the amount of money to be applied by the state for the support of school districts and community college districts during the 2004-05 fiscal year to be calculated by subtracting the amount of \$2,003,996,000 from the amount that would otherwise be required to be applied for the support of school districts and community college districts during the 2004-05 fiscal year if the suspension had not occurred.

This bill would appropriate to Section A of the State School Fund, for allocation by the Superintendent of Public Instruction during the 2005-06 fiscal year, the amount of \$1,157,000,000 from revenues received during the 2005-06 fiscal year that are derived from the tax imposed pursuant to this act, for all of the following: To school districts and county offices of education to eliminate deficits in revenue limits for the 2005-06 fiscal year, to special education local plan areas for special education programs and services for individuals with exceptional needs, to school districts with declining enrollment for additional general purpose funding, to school districts for equalization of school district revenue limits, and to county offices of education for equalization of county office of education revenue limits.

The bill would also appropriate to Section B of the State School Fund, for allocation to community college districts by the Chancellor of the California Community Colleges for the 2005-06 fiscal year, the amount of \$143,000,000 from revenues received during the 2005-06 fiscal year that are derived from the tax imposed pursuant to this act, for revenue limit equalization, for adult noncredit programs, for

additional enrollment growth funding, and for other critical community college purposes as determined by the Chancellor and the Board of Governors of the California Community Colleges, as specified.

The bill would also appropriate to the Superintendent of Public Instruction, to be allocated to school districts without regard to fiscal year, for the purpose of reimbursing school districts for state-mandated local costs, as specified, the amount of \$801,000,000 from revenues received during the 2005-06 fiscal year that are derived from the tax imposed pursuant to this act, in partial satisfaction of the outstanding balance of the minimum education funding obligation for prior fiscal years, as specified.

The bill would also appropriate to the Chancellor of the California Community Colleges, for the purpose of reimbursing community college districts for state-mandated local costs, as specified, and for other one-time purposes as determined by the Chancellor, as specified, the sum of \$99,000,000 from revenues received during the 2005-06 fiscal year that are derived from the tax imposed pursuant to this act, in partial satisfaction of the outstanding balance of the minimum education funding obligation for prior fiscal years, as specified.

This bill would declare that it is to take effect immediately as ~~a tax~~ ~~levy~~ an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: ~~no~~ yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The nonpartisan Legislative Analyst estimates that
- 4 California's state budget for the 2005–06 fiscal year will face a
- 5 deficit of 6.7 billion dollars (\$6,700,000,000).
- 6 (b) The projected deficit is due to structural budget problems
- 7 that, unless resolved, may lead to further deficits in the future.
- 8 The Legislative Analyst recommends that the state adopt real and
- 9 ongoing solutions to close the budget gap.
- 10 (c) For taxable years beginning on and after January 1, 1991,
- 11 and ending on or before January 1, 1996, the Legislature, with
- 12 the concurrence of the Governor, addressed the budget deficits

1 during that period, in part, by slightly increasing the personal
2 income tax rates applied to the state's highest income earners.

3 (d) The restoration of the higher personal income tax rates,
4 previously imposed for the period from January 1, 1991, to
5 January 1, 1996, for the state's highest income earners is a way
6 to address the state's structural budget problems without adverse
7 economic impact and to protect education, health, and safety
8 funding for the state's residents.

9 (e) The recent income tax cuts adopted by the federal
10 government more than offset any increase in state income taxes
11 that would be paid by the state's highest income earners if the tax
12 rates in effect during the period from January 1, 1991, to January
13 1, 1996, were reinstated.

14 (f) In order to protect education funding and vital health and
15 safety services for all of the state's residents, it is the intent of the
16 Legislature, for the taxable years beginning on or after January 1,
17 2005, ~~and before January 1, 2010,~~ to reinstate the income tax
18 brackets, including the inflation adjustment mechanism
19 applicable to those brackets, and the rates set forth in Section
20 17041 of the Revenue and Taxation Code, as that section applied
21 to the taxable period beginning on and after January 1, 1991, and
22 ending on or before January 1, 1996. It is also the intent of the
23 Legislature to reinstate the personal income tax rates, beyond the
24 present maximum of 9.3 percent to 10 percent, for that portion of
25 the taxable income of an individual that ~~exceeds one hundred~~
26 ~~thirty-eight thousand five hundred sixty-six dollars (\$138,566)~~
27 *exceeds one hundred forty-three thousand four hundred*
28 *twenty-one dollars (\$143,421)* and for that portion of taxable
29 income of married taxpayers filing jointly that ~~exceeds two~~
30 ~~hundred seventy-seven thousand one hundred thirty-two dollars~~
31 ~~(\$277,132)~~ *two hundred eighty-six thousand eight hundred*
32 *forty-three dollars (\$286,843)*; and to 11 percent for that portion
33 of the taxable income of an individual that ~~exceeds two hundred~~
34 ~~seventy-seven thousand one hundred thirty-two dollars~~
35 ~~(\$277,132)~~ *two hundred eighty-six thousand eight hundred*
36 *forty-three dollars (\$286,843)* and for that portion of the taxable
37 income of married persons filing jointly that ~~exceeds five~~
38 ~~hundred fifty-four thousand two hundred sixty-five dollars~~
39 ~~(\$554,265)~~. It is the further intent of the Legislature that these
40 taxable income amounts represent former, corresponding taxable

~~income amounts as adjusted for inflation, and that these amounts will continue to be adjusted for inflation in the future. five hundred seventy-three thousand six hundred eighty-six dollars (\$573,686). It is the further intent of the Legislature that these taxable income amounts will continue to be adjusted for inflation in the future.~~

SEC. 2. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of this state for the entire taxable year and for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions:

If the taxable income is:	The tax is:
Not over \$3,650.....	1% of the taxable income
Over \$3,650 but not over \$8,650.....	\$36.50 plus 2% of the excess over \$3,650
Over \$8,650 but not over \$13,650.....	\$136.50 plus 4% of the excess over \$8,650
Over \$13,650 but not over \$18,950.....	\$336.50 plus 6% of the excess over \$13,650
Over \$18,950 but not over \$23,950.....	\$654.50 plus 8% of the excess over \$18,950
Over \$23,950.....	\$1,054.50 plus 9.3% of the excess over \$23,950

(2) (A) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, and any taxable year beginning on or after January 1, 2005, ~~and before January 1, 2010,~~ the income tax brackets and rates set forth in paragraph (1) shall be modified by each of the following:

(i) For that portion of taxable income that is over one hundred thousand dollars (\$100,000) but not over two hundred thousand dollars (\$200,000) the tax rate is 10 percent of the excess over one hundred thousand dollars (\$100,000).

(ii) For that portion of taxable income that is over two hundred thousand dollars (\$200,000) that tax rate is 11 percent of the excess over two hundred thousand dollars (\$200,000).

(B) The income tax brackets specified in this paragraph shall be recomputed, as otherwise provided in subdivision (h), only for taxable years beginning on and after January 1, 1992.

(b) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident, except the head of a household as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the "taxable income of a nonresident or part-year resident," as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (a) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(c) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident for that taxable year, when the resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of the state for the entire taxable year and for all prior taxable years for carryover items, deferred income, suspended losses, or suspended deductions:

If the taxable income is:	The tax is:
Not over \$7,300.....	1% of the taxable income
Over \$7,300 but not over \$17,300.....	\$73 plus 2% of the excess over \$7,300

Over \$17,300 but not	
over \$22,300.....	\$273 plus 4% of the excess
	over \$17,300
Over \$22,300 but not	
over \$27,600.....	\$473 plus 6% of the excess
	over \$22,300
Over \$27,600 but not	
over \$32,600.....	\$791 plus 8% of the excess
	over \$27,600
Over \$32,600.....	\$1,191 plus 9.3% of the excess
	over \$32,600

(2) (A) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, and any taxable year beginning on or after January 1, 2005, ~~and before January 1, 2010~~, the income tax brackets and rates set forth in paragraph (1) shall be modified by each of the following:

(i) For that portion of taxable income that is over one hundred thirty-six thousand one hundred fifteen dollars (\$136,115) but not over two hundred seventy-two thousand two hundred thirty dollars (\$272,230), the tax rate is 10 percent of the excess over one hundred thirty-six thousand one hundred fifteen dollars (\$136,115).

(ii) For that portion of taxable income that is over two hundred seventy-two thousand two hundred thirty dollars (\$272,230), the tax rate is 11 percent of the excess over two hundred seventy-two thousand two hundred thirty dollars (\$272,230).

(B) The income tax brackets specified in this paragraph shall be recomputed, as otherwise provided in subdivision (h), only for taxable years beginning on and after January 1, 1992.

(d) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident when the nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the "taxable income of a nonresident or part-year resident," as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (c) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this

1 state for the taxable year and as if the nonresident or part-year
2 resident were a resident of this state for all prior taxable years for
3 any carryover items, deferred income, suspended losses, or
4 suspended deductions, divided by the amount of that income.

5 (e) There shall be imposed for each taxable year upon the
6 taxable income of every estate, trust, or common trust fund taxes
7 equal to the amount computed under subdivision (a) for an
8 individual having the same amount of taxable income.

9 (f) The tax imposed by this part is not a surtax.

10 (g) (1) Section 1(g) of the Internal Revenue Code, relating to
11 certain unearned income of minor children taxed as if the
12 parent's income, shall apply, except as otherwise provided.

13 (2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code,
14 relating to income included on parent's return, is modified, for
15 purposes of this part, by substituting "1 percent" for "15
16 percent."

17 (h) For each taxable year beginning on or after January 1,
18 1988, the Franchise Tax Board shall recompute the income tax
19 brackets prescribed in subdivisions (a) and (c). That computation
20 shall be made as follows:

21 (1) The California Department of Industrial Relations shall
22 transmit annually to the Franchise Tax Board the percentage
23 change in the California Consumer Price Index for all items from
24 June of the prior calendar year to June of the current calendar
25 year, no later than August 1 of the current calendar year.

26 (2) The Franchise Tax Board shall do both of the following:

27 (A) Compute an inflation adjustment factor by adding 100
28 percent to the percentage change figure that is furnished pursuant
29 to paragraph (1) and dividing the result by 100.

30 (B) Multiply the preceding taxable year income tax brackets
31 by the inflation adjustment factor determined in subparagraph
32 (A) and round off the resulting products to the nearest one dollar
33 (\$1).

34 (i) (1) For purposes of this part, the term "taxable income of a
35 nonresident or part-year resident" includes each of the following:

36 (A) For any part of the taxable year during which the taxpayer
37 was a resident of this state (as defined by Section 17014), all
38 items of gross income and all deductions, regardless of source.

39 (B) For any part of the taxable year during which the taxpayer
40 was not a resident of this state, gross income and deductions

1 derived from sources within this state, determined in accordance
2 with Article 9 of Chapter 3 (commencing with Section 17301 and
3 Chapter 11 (commencing with Section 17951).

4 (2) For purposes of computing “taxable income of a
5 nonresident or part-year resident” under paragraph (1), the
6 amount of any net operating loss sustained in any taxable year
7 during any part of which the taxpayer was not a resident of this
8 state shall be limited to the sum of the following:

9 (A) The amount of the loss attributable to the part of the
10 taxable year in which the taxpayer was a resident.

11 (B) The amount of the loss which, during the part of the
12 taxable year the taxpayer is not a resident, is attributable to
13 California source income and deductions allowable in arriving at
14 taxable income of a nonresident or part-year resident.

15 (3) For purposes of computing “taxable income of a
16 nonresident or part-year resident” under paragraph (1), any
17 carryover items, deferred income, suspended losses, or
18 suspended deductions shall only be includable or allowable to the
19 extent that the carryover item, deferred income, suspended loss,
20 or suspended deduction was derived from sources within this
21 state, calculated as if the nonresident or part-year resident, for the
22 portion of the year he or she was a nonresident, had been a
23 nonresident for all prior years.

24 (j) Notwithstanding any other law to the contrary, the amount
25 of tax imposed by this section for the taxable year upon the
26 taxable income of a taxpayer shall be reduced by an amount
27 equal to the tax imposed by Section 17043 upon that same
28 taxable income.

29 SEC. 3. Section 17062 of the Revenue and Taxation Code is
30 amended to read:

31 17062. (a) In addition to the other taxes imposed by this part,
32 there is hereby imposed for each taxable year, a tax equal to the
33 excess, if any, of—

34 (1) The tentative minimum tax for the taxable year, over

35 (2) The regular tax for the taxable year.

36 (b) For purposes of this chapter, each of the following shall
37 apply:

38 (1) The tentative minimum tax shall be computed in
39 accordance with Sections 55 to 59, inclusive, of the Internal
40 Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed by Section 17041 or 17048, before reduction for any credits against the tax, less any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560.

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to the following percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, before reduction for any credits against the tax:

(i) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, 8.5 percent.

(ii) For any taxable year beginning on or after January 1, 1996, and before January 1, 2005, 7 percent.

(iii) For any taxable year beginning on or after January 1, 2005, ~~and before January 1, 2010~~, 8.5 percent.

(iv) For any taxable year beginning on or after January 1, 2010, 7 percent.

(B) In the case of a nonresident or part-year resident, the tentative minimum tax shall be computed by multiplying the alternative minimum taxable income of the nonresident or part-year resident, as defined in subparagraph (C), by a rate (expressed as a percentage) equal to the tax computed under subdivision (b) on the alternative minimum taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(C) For purposes of this section, the term “alternative minimum taxable income of a nonresident or part-year resident” includes each of the following:

(i) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of alternative minimum taxable income (as modified for purposes of this chapter), regardless of source.

(ii) For any period during which the taxpayer was not a resident of this state, alternative minimum taxable income (as

1 modified for purposes of this chapter) which were derived from
2 sources within this state, determined in accordance with Article 9
3 of Chapter 3 (commencing with Section 17301) and Chapter 11
4 (commencing with Section 17951).

5 (iii) For purposes of computing “alternative minimum taxable
6 income of a nonresident or part-year resident,” any carryover
7 items, deferred income, suspended losses, or suspended
8 deductions shall only be allowable to the extent that the
9 carryover item, suspended loss, or suspended deduction was
10 derived from sources within this state.

11 (4) The provisions of Section 55(b)(2) of the Internal Revenue
12 Code, relating to alternative minimum taxable income, shall be
13 modified to provide that alternative minimum taxable income
14 shall not include the income, adjustments, and items of tax
15 preference attributable to any trade or business of a qualified
16 taxpayer.

17 (A) For purposes of this paragraph, “qualified taxpayer”
18 means a taxpayer who meets both of the following:

19 (i) Is the owner of, or has an ownership interest in, a trade or
20 business.

21 (ii) Has aggregate gross receipts, less returns and allowances,
22 of less than one million dollars (\$1,000,000) during the taxable
23 year from all trades or businesses of which the taxpayer is the
24 owner or has an ownership interest, in the amount of that
25 taxpayer’s proportionate interest in each trade or business.

26 (B) For purposes of this paragraph, “aggregate gross receipts,
27 less returns and allowances” means the sum of the gross receipts
28 of the trades or businesses that the taxpayer owns and the
29 proportionate interest of the gross receipts of the trades or
30 businesses that the taxpayer owns and of pass-through entities in
31 which the taxpayer holds an interest.

32 (C) For purposes of this paragraph, “gross receipts, less
33 returns and allowances” means the sum of the gross receipts from
34 the production of business income, as defined in subdivision (a)
35 of Section 25120, and the gross receipts from the production of
36 nonbusiness income, as defined in subdivision (d) of Section
37 25120.

38 (D) For purposes of this paragraph, “proportionate interest”
39 means:

1 (i) In the case of a pass-through entity that reports a profit for
2 the taxable year, the taxpayer's profit interest in the entity at the
3 end of the taxpayer's taxable year.

4 (ii) In the case of a pass-through entity that reports a loss for
5 the taxable year, the taxpayer's loss interest in the entity at the
6 end of the taxpayer's taxable year.

7 (iii) In the case of a pass-through entity that is sold or
8 liquidates during the taxable year, the taxpayer's capital account
9 interest in the entity at the time of the sale or liquidation.

10 (E) (i) For purposes of this paragraph, "proportionate interest"
11 includes an interest in a pass-through entity.

12 (ii) For purposes of this paragraph, "pass-through entity"
13 means any of the following:

14 (I) A partnership, as defined by Section 17008.

15 (II) An "'S' corporation," as provided in Chapter 4.5
16 (commencing with Section 23800) of Part 11.

17 (III) A regulated investment company, as provided in Section
18 24871.

19 (IV) A real estate investment trust, as provided in Section
20 24872.

21 (V) A real estate mortgage investment conduit, as provided in
22 Section 24874.

23 (5) For taxable years beginning on or after January 1, 1998,
24 Section 55(d)(1) of the Internal Revenue Code, relating to
25 exemption amount for taxpayers other than corporations is
26 modified, for purposes of this part, to provide the following
27 exemption amounts in lieu of those contained therein:

28 (A) Fifty-seven thousand two hundred sixty dollars (\$57,260)
29 in the case of either of the following:

30 (i) A joint return.

31 (ii) A surviving spouse.

32 (B) Forty-two thousand nine hundred forty-five dollars
33 (\$42,945) in the case of an individual who is both of the
34 following:

35 (i) Not a married individual.

36 (ii) Not a surviving spouse.

37 (C) Twenty-eight thousand six hundred thirty dollars
38 (\$28,630) in the case of either of the following:

39 (i) A married individual who files a separate return.

40 (ii) An estate or trust.

1 (6) For taxable years beginning on or after January 1, 1998,
2 Section 55(d)(3) of the Internal Revenue Code, relating to the
3 phaseout of exemption amount for taxpayers other than
4 corporations is modified, for purposes of this part, to provide the
5 following phaseout of exemption amounts in lieu of those
6 contained therein:

7 (A) Two hundred fourteen thousand seven hundred
8 twenty-five dollars (\$214,725) in the case of a taxpayer described
9 in subparagraph (A) of paragraph (5).

10 (B) One hundred sixty-one thousand forty-four dollars
11 (\$161,044) in the case of a taxpayer described in subparagraph
12 (B) of paragraph (5).

13 (C) One hundred seven thousand three hundred sixty-two
14 dollars (\$107,362) in the case of a taxpayer described in
15 subparagraph (C) of paragraph (5).

16 (7) For each taxable year beginning on or after January 1,
17 1999, the Franchise Tax Board shall recompute the exemption
18 amounts prescribed in paragraph (5) and the phaseout of
19 exemption amounts prescribed in paragraph (6). Those
20 computations shall be made as follows:

21 (A) The California Department of Industrial Relations shall
22 transmit annually to the Franchise Tax Board the percentage
23 change in the California Consumer Price Index for all items from
24 June of the prior calendar year to June of the current calendar
25 year, no later than August 1 of the current calendar year.

26 (B) The Franchise Tax Board shall do both of the following:

27 (i) Compute an inflation adjustment factor by adding 100
28 percent to the percentage change figure that is furnished pursuant
29 to subparagraph (A) and dividing the result by 100.

30 (ii) Multiply the preceding taxable year exemption amounts
31 and the phaseout of exemption amounts by the inflation
32 adjustment factor determined in clause (i) and round off the
33 resulting products to the nearest one dollar (\$1).

34 (c) (1) (A) Section 56(a)(6) of the Internal Revenue Code as
35 in effect on January 1, 1997, relating to installment sales of
36 certain property, shall not apply to payments received in taxable
37 years beginning on or after January 1, 1997, with respect to
38 dispositions occurring in taxable years beginning after December
39 31, 1987.

(B) This paragraph shall not apply to taxable years beginning on or after January 1, 1998.

(2) Section 56(b)(1)(E) of the Internal Revenue Code, relating to standard deduction and deduction for personal exemptions not allowed, is modified, for purposes of this part, to deny the standard deduction allowed by Section 17073.5.

(3) Section 56(b)(3) of the Internal Revenue Code, relating to treatment of incentive stock options, shall be modified to additionally provide the following:

(A) Section 421 of the Internal Revenue Code shall not apply to the transfer of stock acquired pursuant to the exercise of a California qualified stock option under Section 17502.

(B) Section 422(c)(2) of the Internal Revenue Code shall apply in any case where the disposition and inclusion of a California qualified stock option for purposes of this chapter are within the same taxable year and that section shall not apply in any other case.

(C) The adjusted basis of any stock acquired by the exercise of a California qualified stock option shall be determined on the basis of the treatment prescribed by this paragraph.

(d) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest shall not apply.

(e) Section 57(a) of the Internal Revenue Code, relating to items of tax preference, is modified to include as an item of tax preference an amount equal to one-half of the amount excluded from gross income for the taxable year under Section 18152.5.

(f) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, shall not apply.

~~SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.~~

SEC. 4. (a) By enacting this act, the Legislature acknowledges that Chapter 213 of the Statutes of 2004, wherein the minimum amount of moneys that were required to be applied by the state for the support of school districts and community college districts for the 2004-05 fiscal year pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution was suspended, was enacted in the context of a commitment by the Governor, and memorialized in subdivision (b) of Section 1 of Chapter 213 of the Statutes of 2004, to provide

1 *school districts and community college districts a level of funding*
2 *for the 2004-05 fiscal year equal to two billion three million nine*
3 *hundred ninety-six thousand dollars (\$2,003,996,000) less than*
4 *the level that would otherwise have been required to have been*
5 *provided pursuant to subdivision (b) of Section 8 of Article XVI*
6 *of the California Constitution.*

7 *(b) The Legislature further acknowledges that between the*
8 *date of enactment of the Budget Act of 2004 and the date of*
9 *publication of the May Revision of the Governor's Budget for the*
10 *2005-06 fiscal year, the estimate of revenues available in the*
11 *General Fund for the 2004-05 fiscal year increased by an*
12 *amount sufficient to increase the amount that would otherwise*
13 *have been required to be provided under subdivision (b) of*
14 *Section 8 of Article XVI for that fiscal year by approximately one*
15 *billion eight hundred million dollars (\$1,800,000,000).*

16 *(c) The Legislature further acknowledges that the Governor's*
17 *commitment that was memorialized in Chapter 213 of the*
18 *Statutes of 2004, and the provisions of Chapter 213 of the*
19 *Statutes of 2004, require that the level of funding for school*
20 *districts and community college districts pursuant to subdivision*
21 *(b) of Section 8 of Article XVI of the California Constitution for*
22 *the 2004-05 fiscal year be increased by approximately one*
23 *billion eight hundred million dollars (\$1,800,000,000), with a*
24 *consequent increase in the 2005-06 fiscal year of approximately*
25 *one billion three hundred million dollars (\$1,300,000,000) above*
26 *the level proposed in the May Revision of the Governor's Budget*
27 *for the 2005-06 fiscal year.*

28 *(d) The Legislature declares that the funding provided by this*
29 *act is in partial satisfaction of the obligation established by*
30 *Chapter 213 of the Statutes of 2004.*

31 *SEC. 5. From the revenues received during the 2005-06 fiscal*
32 *year that are derived from the tax imposed by this act are hereby*
33 *appropriated as follows:*

34 *(a) The sum of one billion one hundred fifty-seven million*
35 *dollars (\$1,157,000,000) to Section A of the State School Fund*
36 *for allocation by the Superintendent of Public Instruction during*
37 *the 2005-06 fiscal year as follows:*

38 *(1) The sum of two hundred eighty-nine million dollars*
39 *(\$289,000,000) for allocation to school districts and county*
40 *offices of education to eliminate deficits in revenue limits for the*

1 2005-06 fiscal year that result after application of deficit factors
2 pursuant to Sections 2558.46 and 42238.146 of the Education
3 Code. For the 2005-06 fiscal year, and for each fiscal year
4 thereafter, the deficit factors established in Sections 2558.46 and
5 42238.146 of the Education Code shall be zero.

6 (2) The sum of five hundred million dollars (\$500,000,000) for
7 allocation to special education local plan areas for special
8 education programs and services for individuals with exceptional
9 needs pursuant to Part 30 (commencing with Section 56000) of
10 the Education Code. The funds allocated by this paragraph shall
11 be apportioned to special education local plan areas as a
12 proportionate increase in the allowances that would otherwise be
13 provided pursuant to Chapter 7.2 (commencing with Section
14 56836) of Part 30 of the Education Code.

15 (3) The sum of one hundred million dollars (\$100,000,000) for
16 allocation to school districts with declining enrollment for
17 additional general purpose funding. The Superintendent of
18 Public Instruction shall allocate these funds in a manner that
19 provides school districts with two or more consecutive years of
20 decline in enrollment an amount equal to 60 percent of their base
21 revenue limit for each reduced unit of average daily attendance
22 for the second, and for each subsequent consecutive year of
23 decline in enrollment. Funding pursuant to this paragraph shall
24 not be provided for reductions in average daily attendance
25 resulting from a transfer of territory, from a reorganization, or
26 from any other change in the service responsibility of a school
27 district.

28 (4) The sum of two hundred sixty-two million dollars
29 (\$262,000,000) for allocation to school districts for equalization
30 of school district revenue limits. The Superintendent of Public
31 Instruction shall apportion the funds provided pursuant to this
32 paragraph in equal amounts between the formulas reflected in
33 Sections 42238.44 and 42238.46 of the Education Code as if
34 those sections were applicable for the 2005-06 fiscal year.

35 (5) The sum of six million dollars (\$6,000,000) for allocation
36 to county offices of education for equalization of county office of
37 education revenue limits. The Superintendent of Public
38 Instruction shall apportion the funds provided pursuant to this
39 paragraph in a manner consistent with Article 3.5 (commencing
40 with Section 2560) of Chapter 12 of Part 2 of the Education

1 *Code as if those provisions were applicable for the 2005-06*
2 *fiscal year.*

3 *(b) The sum of one hundred forty-three million dollars*
4 *(\$143,000,000) to Section B of the State School Fund for*
5 *allocation to community college districts by the Chancellor of the*
6 *California Community Colleges for the 2005-06 fiscal year for*
7 *revenue limit equalization, for adult noncredit programs, for*
8 *additional enrollment growth funding, and for other critical*
9 *community college purposes as determined by the Chancellor*
10 *and the Board of Governors of the California Community*
11 *Colleges through the consultation process provided pursuant to*
12 *subdivision (e) of Section 70901 of the Education Code.*

13 *(c) The sum of eight hundred one million dollars*
14 *(\$801,000,000) to the Superintendent of Public Instruction, to be*
15 *allocated to school districts without regard to fiscal year, for the*
16 *purpose of reimbursing school districts for state-mandated local*
17 *costs pursuant to subdivision (f) of Section 41207 of the*
18 *Education Code. The funds allocated pursuant to this subdivision*
19 *are in partial satisfaction of the outstanding balance of the*
20 *minimum funding obligation pursuant to subdivision (b) of*
21 *Section 8 of Article XVI of the California Constitution for prior*
22 *fiscal years determined pursuant to Section 41207 and shall be in*
23 *lieu of the same amount of funds that would otherwise be*
24 *appropriated pursuant to subdivision (d) of that section.*

25 *(d) The sum of ninety-nine million dollars (\$99,000,000) to the*
26 *Chancellor of the California Community Colleges for the*
27 *purpose of reimbursing community college districts for*
28 *state-mandated local costs pursuant to subdivision (f) of Section*
29 *41207 of the Education Code and for other one-time purposes as*
30 *determined by the Chancellor through the consultation process*
31 *provided pursuant to subdivision (e) of Section 70901 of the*
32 *Education Code. The funds allocated pursuant to this subdivision*
33 *shall be deemed to be in partial satisfaction of the outstanding*
34 *balance of the minimum education funding obligation pursuant*
35 *to subdivision (b) of Section 8 of Article XVI of the California*
36 *Constitution for prior fiscal years as determined pursuant to*
37 *Section 41207 and shall be in lieu of the same amount of funds*
38 *that would otherwise be appropriated pursuant to subdivision (d)*
39 *of that section.*

1 *SEC. 6. This act is an urgency statute necessary for the*
2 *immediate preservation of the public peace, health, or safety*
3 *within the meaning of Article IV of the Constitution and shall go*
4 *into immediate effect. The facts constituting the necessity are:*
5 *In order to ensure that funding for public education is*
6 *maintained at a sufficient level at the earliest possible time, it is*
7 *necessary that this bill take effect immediately.*